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11 ALTERRA EXCESS AND SURPLUS INSURANCE COMPANY

12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

15 THE ESTATE OF BUCKMINSTER FULLER,

16 Plaintiff,

17 vs.

18 MAXFIELD & OBERTON HOLDINGS, LLC,
19 A Delaware Limited Liability Company;

20 Defendant.

21 ALTERRA EXCESS AND SURPLUS
22 INSURANCE COMPANY,

23 Intervenor.

CASE NO.: 5:12-cv-02570-LHK

**NOTICE OF RESOLUTION OF
RELATED INSURANCE COVERAGE
ACTION IN FAVOR OF DEFENDANT-
INTERVENOR ALTERRA EXCESS
AND SURPLUS INSURANCE
COMPANY AND REQUEST FOR
DISMISSAL OF THIS ACTION**

Complaint filed: May 18, 2012

1 Defendant-Intervenor Alterra Excess and Surplus Insurance Company (“Alterra”)
2 provides the Court with Notice that the related coverage action has been resolved in favor of
3 Alterra and respectfully requests that the Court dismiss this action.

4 A case management conference was held on June 26, 2013, at which Alterra and Plaintiff
5 Estate of Buckminster Fuller (“Estate”) stipulated to stay this action pending resolution of the
6 related insurance coverage action, *Alterra Excess and Surplus Ins. Co. v. Maxfield and Oberton*
7 *Holdings, LLC, et al.*, San Francisco Superior Court Case No. CGC-12-522867. (Docket #57,
8 Court’s Minute Order, Case Management Order, and Order Staying and Administratively
9 Closing Case.)

10 On March 9, 2015, the Court of Appeal in the coverage action affirmed a judgment on the
11 pleadings in favor of Alterra holding it had no duty to defend and therefore no duty to indemnify
12 its insured, dissolved Defendant Maxfield & Oberton Holdings, LLC (“Maxfield”) in this action.
13 *Alterra Excess and Surplus Ins. Co. v. Snyder* (2015) 234 Cal.App.4th 1390 (Jaime Snyder is co-
14 executor of the Estate, defendant and appellant in the coverage action and plaintiff in this action).

15 Nothing remains to be litigated in this action. The Estate had objected to Alterra’s
16 previous request to dismiss this action which Alterra had sought due to the Estate’s release of all
17 claims against Maxfield. (Docket #53, Joint Subsequent Case Management Statement, 2:20 –
18 3:10; Docket #56, Defendant-Intervenor’s Supplemental Case Management Statement.) The
19 Estate’s position in response was that, despite the settlement, it still possessed a right to pursue
20 claims against Alterra based on Maxfield’s alleged liability in this action.¹ The Estate stated that
21 it had “entered into a Settlement with the [Maxfield] Trust” and “release[d] all claims against
22 [Maxfield], [its] Trustee and the Trust ‘*except for those claims which can be pursued against*
23 *Alterra.*’” (Docket #55, Plaintiff’s Supplemental Case Management Statement, at 2:3-4, 19-20
24 (emphasis in original).)

25 Given the state court’s conclusion that Alterra has no coverage obligation, there is
26 nothing left to adjudicate here. The Estate has released all claims against Maxfield and the

27 ¹ Alterra in no sense agrees with the Estate’s premise. Under California law, a settlement without an insurer’s
28 consent bars a direct claim against the insurer. *Hamilton v. Maryland Cas. Co.* (2002) 27 Cal.4th 718.

1 Estate is forever barred from pursuing claims against Alterra. Alterra respectfully requests the
2 Court dismiss the action.

3 Dated: June 17, 2015

GORDON & REES LLP

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5 By: /s/ Arthur Schwartz

ARTHUR SCHWARTZ

RANDALL P. BERDAN

Attorneys for Defendant-Intervenor

ALTERRA EXCESS AND SURPLUS INSURANCE
COMPANY